

EXHIBIT U

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- v. -

No. S1 16 Cr. 776 (VEC)

JOSEPH PERCOCO, a/k/a "Herb,"
ALAIN KALOYEROS, a/k/a "Dr. K.,"
PETER GALBRAITH KELLY, JR., a/k/a "Braith,"
STEVEN AIELLO,
JOSEPH GERARDI,
LOUIS CIMINELLI,
MICHAEL LAIPPLE, and
KEVIN SCHULER,

Defendants.

**AFFIDAVIT OF DANIEL M. GITNER IN SUPPORT OF
PETER GALBRAITH KELLY, JR.'S MOTIONS FOR
BRADY DISCLOSURE AND A BILL OF PARTICULARS**

I, DANIEL M. GITNER, make the following affidavit:

1. I am a member of the bar of this Court and a partner at Lankler Siffert & Wohl LLP ("LSW"), attorneys for defendant Peter Galbraith Kelly, Jr. I make this affidavit, based on firsthand knowledge, in support of Mr. Kelly's motions for Brady disclosure and a bill of particulars.
2. This affidavit concerns a telephonic meet-and-confer that occurred on May 12, 2017. In addition to myself and colleagues representing Mr. Kelly, counsel for co-defendants Joseph Percoco, Steven Aiello, and Joseph Gerardi participated on the call, as well as attorneys for the Government.

3. The meet-and-confer was conducted pursuant to Rule 16.1 of the Local Criminal Rules, as well as section 4 of this Court's Individual Rules of Practice in Criminal Cases.

4. During the call, defense counsel reviewed various requests that had been submitted to the Government by letter in connection with requests for bills of particulars and Brady materials. The Government indicated that its positions were unchanged from those it had set forth in its responsive letters.

5. The Government indicated its belief that the S1 Indictment and the Complaint provide sufficient information for defense counsel to identify the unindicted co-conspirators. However, the Government declined to confirm that the S1 Indictment and the Complaint reference all of the known unindicted co-conspirators.

6. The Government stated that the S1 Indictment and the Complaint list the titles of the New York State officials whom Joseph Percoco allegedly pressured or advised to take "official acts." However, the Government declined to confirm that the S1 Indictment and the Complaint contain a complete list of such officials. In this regard, the Government indicated that the S1 Indictment alleges the "official acts" on which defense counsel should "focus," but declined to confirm that the S1 Indictment contains all the "official acts" the Government intends to prove at trial.

7. The Government stated its belief that Count Thirteen of the S1 Indictment charges a gratuity offense in addition to bribery, but did not state what alleged "official acts" were linked to any alleged gratuity payments.

I swear under penalty of perjury that the foregoing is true and correct.

Executed on: May 19, 2017



DANIEL M. GITNER

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Attorney for Peter Galbraith Kelly, Jr.

*Sworn to before me
this 19th day of May, 2017*

Adele D. Calmel

ADELE D. CALMEL
Notary Public, State of New York
No. 01CA5011796
Qualified in New York County
Commission Expires June 15, 2019